

Rye City Planning Commission Minutes

July 29, 2003

PRESENT:

Michael W. Klemens, Chairman
Franklin Chu
Hugh Greechan
Patrick McGunagle
Martha Monserrate

ABSENT:

Barbara Cummings, Vice-Chair
Peter Larr

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
George M. Mottarella, P.E., City Engineer

I. HEARINGS

None

II. ITEMS PENDING ACTION

1. Discussion of City Council Referral – AYC MC District Rezoning Request

The Commission discussed AYC's request to rezone two parcels on the west side of Stuyvesant Avenue from R-1 to MC District. The Commission noted that it would not limit its discussion solely to AYC's request but that it would also consider whether it would be appropriate to rezone other properties in the area. The Commission agreed that given these larger planning considerations that it was not necessary for any member of the Planning Commission to recuse themselves from this discussion solely based on their membership at various clubs in the City that may be impacted by possible changes in zoning.

The Commission discussed a prior hot spots planning study that evaluated the future development potential of membership clubs and other properties in the City. The Commission considered the AYC rezoning request as a continuation of that prior study in terms of re-evaluating the appropriateness of existing land use restrictions on Milton Point and other coastal areas in the City.

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 2 of 8

1
2 The Commission discussed the alternative zoning strategies presented in the City
3 Planner's report. The Commission preferred those strategies that involved changes in
4 zoning that applied not just to AYC properties but also other properties along Milton Point.
5 In addition, the Planning Commission noted that additional modifications to the MC District
6 may be appropriate such as more specific provisions to encourage greater public access
7 to the waterfront. The Commission desired measures that would discourage the
8 privatization of the waterfront through the conversion of properties to single family homes.

9
10 Commission members agreed that preserving and promoting membership clubs in the
11 Milton Point area was desirable. The Commission noted Durland Scout Center and
12 possibly Wainwright property should be protected from future conversion to single family
13 use. The Commission also noted that measures should be provided to discourage the
14 conversion of existing membership clubs to residential subdivisions. The Commission
15 noted that these larger planning issues should be discussed but that they did not want to
16 unduly delay the consideration of the AYC rezoning request.

17
18 The City Planner added that the consideration of the AYC or any rezoning request must
19 examine the larger planning context to avoid spot zoning concerns. He suggested that at a
20 minimum the re-zoning request should also apply to that portion of the Shenorock Shore
21 Club property located in the R-1 District. The City Planner noted that the Shenorock
22 property is immediately adjacent to the AYC properties requesting rezoning and that the
23 size, proximity and use of this property would be readily applicable to the AYC request.

24
25 The Commission inquired as to AYC's future development intentions and questioned how
26 the rezoning may adversely impact the use of the Town Dock. Jonathan Kraut (applicant's
27 attorney) noted that AYC has no specific future development intentions. He added that the
28 requested rezoning is not related to the prior Rye Town Dock/ AYC land swap issue
29 presented to the City in the past. Mr. Kraut noted that the Town Dock has been restored in
30 its current location and that AYC has no intention of impinging on the use or enjoyment of
31 that facility. Mr. Kraut added that AYC intends to use the property within the R-1 District as
32 it is currently used today, which is for passive recreational use and the off-season boat
33 storage. Mr. Kraut acknowledged that AYC has a crowded mooring field and that it would
34 like to add mooring facilities at some point in the future, but that nothing is specifically
35 proposed or planned at this time.

36
37 Mr. Kraut stated that he met informally with the City Planner to discuss the proposed
38 rezoning. He noted that the MC District and the R-1 District have very similar regulations
39 with respect to membership clubs. During preliminary discussions with the City Planner it
40 was suggested that consideration of the rezoning of the AYC properties on the west side of
41 Stuyvesant Avenue should be broadened to include, at a minimum, the adjacent Shenorock
42 property. Mr. Kraut stated that based on this discussion it was agreed that AYC should
43 submit a letter to the Council requesting consideration of rezoning of its properties fully

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 3 of 8

1 recognizing that these larger planning issues would likely be discussed including the
2 possible rezoning of other properties in the area.

3
4 Mr. Kraut stated that it was the applicant's intent that once more specific direction is
5 provided by the Planning Commission and City Council that a specific petition including
6 zoning text language would be submitted to the City for its consideration. Mr. Kraut added
7 that he desired a Planning Commission recommendation back to the City Council
8 regarding the proposed rezoning request so that the process could be advanced in a
9 relatively timely fashion.

10
11 The Commission agreed to prepare a memo to the City Council indicating that it supports
12 consideration of zoning map and text amendments to rezone the two properties that are the
13 subject of AYC's request, provided that the planning and the zoning analysis be expanded
14 to consider the inclusion of other properties along Stuyvesant Avenue.

15
16 The Planning Commission further noted that the requested zone change offers an
17 opportunity to evaluate the effectiveness of existing land use regulations in promoting water
18 dependent and water enhanced uses on Milton Point as encouraged in the City's LWRP.
19 The Commission added that the MC District also be modified to prevent or discourage the
20 potential conversion of the membership clubs to single family subdivisions. The
21 Commission suggested that this modification might include the possible elimination of
22 single-family uses as permitted uses in the MC District.

23
24 The general manager of the Shenorock Shore Club and a property owner of 230
25 Stuyvesant Avenue attended the meeting and requested a copy of the City Planner
26 memorandum. The Commission agreed to release the City Planner's comments.

29 **2. 30 High Street**

30
31 Gregg DeAngelis (applicant's architect) provided an overview of the most recent site plan.
32 He noted that the plan had been revised in response to the Planning Commissions
33 comments at their last meeting. The revised plan included three, rather than the previous
34 two, subdivision lots with each building situated on its own lot. Mr. DeAngelis noted that
35 the revised plan included individual driveways for each property and that there would be no
36 shared driveways. He noted that the revised plan included two family dwellings on the
37 rear of the property abutting and existing residence district. The proposed contractors
38 business would be located on a third property located on the front half of the property along
39 High Street.

40
41 Mr. DeAngelis noted that all lots on the proposed plan comply with the bulk and
42 dimensional requirements of the City's Zoning Code. He noted the presence of an existing
43 City drainage pipe and sanitary sewer line that bisect the property. The lines are located

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 4 of 8

1 outside of an existing easement that is only three feet in width. The applicant proposes to
2 relocate these lines within a new City easement. Mr. DeAngelis stated that the City
3 Engineer was conceptually receptive to the idea of relocating these pipes within a defined
4 easement. The City Engineer noted that the width of the proposed easement should be
5 approximately 10 to 15 feet.

6
7 The Commission discussed with the City Engineer the sewer and drainage lines running
8 through the property. The Commission agreed that a public hearing would be useful in
9 determining any neighborhood concerns with the proposed application.

10
11 On a motion made by Franklin Chu, seconded by Patrick McGunagle and carried by the
12 following vote:

13
14 AYES: Michael Klemens, Franklin Chu, Hugh Greechan, Patrick McGunagle, Martha
15 Monserrate

16 NAYS: None

17 RECUSED: None

18 ABSENT: Barbara Cummings, Peter Larr

19
20 the Planning Commission took the following action:

21
22 **ACTION:** The Planning Commission set a public hearing on subdivision application
23 number SUB281 and site plan and use permitted subject to additional
24 standards and requirements application number SP275 for its September 9,
25 2003 meeting.

26 27 28 **3. Rattner**

29
30 The Commission questioned why the applicant needed the proposed project. Daniel
31 Natchez (applicant's consultant) stated that the project was necessary to protect the
32 approximately 20,000 square feet of the applicant's property that extends into the harbor
33 (i.e. peninsula). The project also provides protection to the remainder of the applicant's
34 property and other properties in the area. Mr. Natchez stated that the existing seawall is
35 failing and that it is not cost effective to repair after each storm event. Mr. Natchez noted
36 that the seawall was most recently damaged in a 1996 Nor'easter in which portions of the
37 wall collapsed sending rocks and silt into the sound.

38
39 Mr. Natchez explained that the peninsula also serves to protect the seawall on the upland
40 portion of the property. He indicated that it would cost approximately \$225,000 to replace
41 the "upland seawall" if it were lost in a storm. The proposed project would protect that
42 upland wall for nearly half that amount.

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 5 of 8

1 Mr. Natchez explained that the existing seawall on the peninsula couldn't withstand strong
2 storm events because it is made of inappropriate stone and its vertical pitch does not
3 adequately dissipate wave energy. Mr. Natchez noted that the peninsula consists of
4 manmade and natural materials including ledge rock and historical fill. The proposed
5 project would build upon these existing materials. Mr. Natchez stated that the proposed
6 seawall design would properly withstand storm events, provide an aesthetic enhancement
7 and be environmentally sensitive by including salt tolerant wetland plants.

8
9 The Commission questioned the need to increase the height of the existing
10 seawall/peninsula by up to 3.5 feet in some locations. Mr. Natchez explained that
11 increasing the height of the wall was necessary to sufficiently withstand wave impacts. He
12 stated that the top of the wall would be at approximately elevation 13, which is above the 12
13 to 12.5 wave trough height of a 100-year storm event. The Commission noted concern with
14 the visual impact of raising the seawall and questioned whether its elevation could be
15 lowered. Mr. Natchez responded that lowering the height would make the wall and
16 peninsula vulnerable to washout from storm events.

17
18 The Commission noted concern with the "double armoring" of the applicant's property and
19 questioned the appropriateness of allowing what appears to be a primary and secondary
20 seawall to protect a property. The Commission stated that it was not aware of any similar
21 seawall arrangement. The Commission noted that armoring of the shoreline is typically
22 discouraged and that the project would have to be carefully evaluated in terms of its
23 consistency with the policies of the City's LWRP. The Commission noted that allowing the
24 peninsula to gradually erode overtime maybe more ecologically appropriate.

25
26 Mr. Natchez responded that the proposed project was appropriate and that its design will
27 prevent future erosion and siltation into Long Island Sound. He noted that the project would
28 provide an enhanced habitat for wildlife both on top of the peninsula and within the
29 additional voids in the seawall. The Commission questioned the wildlife benefit and stated
30 that the existing condition shows evidence of wildlife habitat. Mr. Rattner explained that the
31 project was significant and that it represented an enhancement of an existing peninsula
32 rather than the creation of a new topographic feature. He added that neighbors in the area
33 are in support of the project.

34
35 The Commission discussed the applicant's need for the proposed dock and questioned its
36 size could be reduced. Mr. Natchez explained that the size of the dock was designed to
37 reach adequate water depth for boats. He noted that it would not interfere with designated
38 federal channels.

39
40 The Commission agreed to not set a public hearing until the comments of the CC/AC were
41 submitted for its consideration.

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 6 of 8

4. Rye Subaru

Anthony Gioffre (applicant's attorney) provided an overview of the property and the proposed project. He stated that the property was formerly used as a gas station and is proposed to be used for automotive retail sales. He noted that the dealership would operate independently of the adjacent Ford dealership. Mr. Gioffre stated that a new building would be constructed on the site and would be set back 10 feet from the front property line. Landscaping would be provided on the site frontage to improve the aesthetic character of the property. He noted that the project provides off-site parking as required by the City Zoning Code and that the site access was relocated to provide further separation from Peck Avenue.

The Commission questioned whether the site was the subject of a prior remediation project. It was stated that the property was subject to remediation associated with leaking gasoline tanks, but that that remediation was closed.

The Commission noted that the site plan should be revised to eliminate or, in the alternative obtain a license agreement from the City Council, for the encroachment of the parking area on the adjacent City of Rye property. The Commission questioned whether the applicant might re-institute the public walkway extending from Boston Post Road to the Metro-North Railroad Station as compensation to the City for the license agreement. Mr. Gioffre stated that the applicant would consider the Commission's request. The City Engineer stated that the walkway is in disrepair and would require significant improvement including new concrete, steps, lighting, railings, etc. An easement across the applicant's and possibly Metro-North property may be necessary. The City Engineer added the City would incur additional maintenance and liability responsibilities that should be considered. The Commission agreed that it would continue to consider the walkway and seek input for the public at the public hearing.

The Commission reviewed the comments of the BAR. The Commission suggested that the applicant consider a more sensitive architectural design given the gateway location of the building.

5. Dugan

Pam Lester (applicant's landscape architect) provided an overview of the application noting that it involved the construction of a two-car garage in the rear yard adjacent to the Blind Brook. Ms. Lester noted that the existing shed and a portion of the existing driveway would be removed resulting in a net increase in impervious area of 50 square feet. Landscape plantings along the Brook would be provided as mitigation.

The Commission discussed the compliance of the garage with the City's Floodplain Management Law and the proposed removal of the existing beech tree. Ms. Lester

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 7 of 8

1 responded that the project architect is aware of the City's floodplain regulations and that
2 the structure would be constructed in accordance with those requirements. Ms. Lester
3 noted that the beech tree requires removal for the new driveway, which is already relatively
4 small to accommodate vehicle turning movements. Ms. Lester also expressed concern
5 that if the tree were saved, that it's health and life span might be impacted by construction.
6

7 The City Engineer requested that the applicant review the survey to confirm that there is not
8 a drainage easement on the property.
9

10
11
12 On a motion made by Franklin Chu, seconded by Martha Monserrate and carried by the
13 following vote:
14

15 AYES: Michael Klemens, Franklin Chu, Hugh Greechan, Patrick McGunagle, Martha
16 Monserrate

17 NAYS: None

18 RECUSED: None

19 ABSENT: Barbara Cummings, Peter Larr
20

21 the Planning Commission took the following action:
22

23 **ACTION:** The Planning Commission set a public hearing on wetland permit application
24 number WP132 for its September 23, 2003 meeting.
25
26

27 6. Rheingold 28

29 Richard Horsman (applicant's landscape architect) provided an overview of the application
30 noting that it involved the construction of a dry-laid stone wall along the top of a hillside in
31 the rear yard of the Rheingold residence. Mr. Horsman indicated that the project was
32 necessary to prevent the erosion of the hill into the adjacent wetland area. He stated that
33 all construction would be by hand and that the height of the wall would vary between one
34 and five feet and approximately 70 feet in length.
35

36 The Commission noted that the application appeared acceptable and that the design of
37 the wall would not create a barrier for wildlife travel patterns. Also, its dry-laid construction
38 would allow surface and groundwater to pass through the wall.
39

40 On a motion made by Patrick McGunagle, seconded by Martha Monserrate and carried by
41 the following vote:
42

Rye City Planning Commission Minutes (Cont.)

July 29, 2003

Page 8 of 8

1 AYES: Michael Klemens, Franklin Chu, Hugh Greechan, Patrick McGunagle, Martha
2 Monserrate

3 NAYS: None

4 RECUSED: None

5 ABSENT: Barbara Cummings, Peter Larr

6
7 the Planning Commission took the following action:

8
9 **ACTION:** The Planning Commission set a public hearing on wetland permit application
10 number WP134 for its September 23, 2003 meeting.

11 12 13 **7. Smyth**

14
15 Richard Horsman (applicant's landscape architect) noted that the applicant received
16 approval from the Commission last May for the reconstruction of an existing residence.
17 Mr. Horsman stated that the applicant was seeking to build a modular residence and that it
18 desired to expand the footprint of the foundation by 90 square feet to accommodate the
19 structure. A variance from the Zoning Board of Appeals would also be required. Mr.
20 Horsman stated that the previously approved plan includes enough landscape planting to
21 provide a 2:1 ratio for the increased house footprint.

22
23 The Commission agreed that the proposed modification was acceptable. The CC/AC
24 noted no concern with the revised plan. The Commission noted that public input on the
25 revised plan would be required in connection with the Zoning Board of Appeals and Board
26 of Architectural Review approvals.

27 28 **8. Minutes**

29
30 The Commission reviewed and approved minutes of its June 24 and July 22, 2003
31 meetings.